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Ontario County Clerk
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Document Type: **SUMMONS + COMPLAINT**

Receipt Number: 545397

Plaintiff

CURTIS, KELLY

Defendant

SPEEDWAY LLC

Fees

Total Fees Paid: \$0.00

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State of New York
County of Ontario

Efiling through NYSCEF with a total page count of
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A handwritten signature in cursive script that reads "Matthew J. Hoose".

Ontario County Clerk

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

PK

Do Not Detach

STATE OF NEW YORK
SUPREME COURT
COUNTY OF ONTARIO

KELLY CURTIS
1107 White Oak Lane
Farmington, New York 14425

Index No.:

Plaintiff,

SUMMONS

Vs.

Basis of Venue:
Residence of Plaintiff

SPEEDWAY LLC
6180 Collett Road
Farmington, New York 14425;

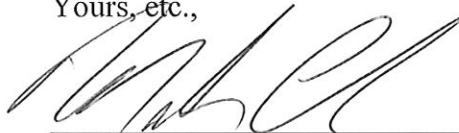
Defendant.

TO THE ABOVE DEFENDANT:

YOU ARE HEREBY SUMMONED to Answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: May 6, 2021

Yours, etc.,



Mark O. Chieco, Esq.
PASSALACQUA & ASSOCIATES
Attorneys for Plaintiff
Office and Post Office Address
610 Charlotte Street
Utica, New York 13501
(315) 688-1268

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONTARIO

KELLY CURTIS Index No.:

Plaintiff, COMPLAINT

Vs.

SPEEDWAY LLC

Defendant.

Plaintiff, Kelly Curtis as and for a Complaint, by and through her attorneys, Passalacqua & Associates, respectfully sets forth, upon information and belief, that at all times hereinafter mentioned:

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANT SPEEDWAY LLC

1. At all times herein mentioned, the plaintiff, Kelly Curtis, was and still is a resident of the Town of Farmington, County of Ontario, and State of New York.
2. At all times herein mentioned, the defendant, Speedway LLC was a limited liability company duly organized and existing under and by virtue of the laws of the State of New York.
3. That at all times herein mentioned, the defendant, Speedway LLC, was a corporation duly organized and existing under and by virtue of the laws of a sister state.

4. That at all times herein mentioned, the defendant, Speedway LLC, was a business entity authorized to conduct business activities within the State of New York.
5. That at all times herein mentioned, the defendant, Speedway LLC, was a business entity engaged in business activities within the State of New York.
6. That at all times herein mentioned, the defendant, Speedway LLC, was the owner of the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York.
7. That at all times herein mentioned, the defendant, Speedway LLC, leased the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York.
8. That at all times herein mentioned, the defendant, Speedway LLC, operated the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks parking lot adjacent thereto.
9. That at all times herein mentioned, the defendant, Speedway LLC, managed the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks and parking lot adjacent thereto.
10. That at all times herein mentioned, the defendant, Speedway LLC, maintained the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks parking lot adjacent thereto.
11. That at all times herein mentioned, the defendant, Speedway LLC, repaired the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks and parking lot adjacent thereto.
12. That at all times herein mentioned, the defendant, Speedway LLC, inspected the building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks and parking lot adjacent thereto.
13. That at all times herein mentioned, the defendant, Speedway LLC, controlled the

building and/or premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York and more particularly the sidewalks parking lot adjacent thereto.

14. That at all times herein mentioned, the building and premises known as Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York was a commercial property.
15. That at all times herein mentioned, the plaintiff, Kelly Curtis, was lawfully on the sidewalk/parking lot as a pedestrian at the aforementioned location operated, managed, maintained, repaired, inspected and/or controlled by the defendant, Speedway LLC.
16. That at all times herein mentioned, the plaintiff Kelly Curtis, was lawfully on the parking lot as a pedestrian at the aforementioned location, operated, managed, maintained, repaired, inspected and/or controlled by the defendant, Speedway LLC, and more particularly, in the area of the sidewalk/parking lot of the Speedway located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York.
17. That on January 20, 2021, plaintiff, Kelly Curtis, was a pedestrian lawfully on the parking lot in front of Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York, when she was caused to slip and fall as a result of a broken, depressed, snowy, icy and/or otherwise dangerous condition on the aforementioned parking lot located thereat.
18. That the defendant, Speedway LLC, its agents, servants and/or employees and/or contractors and/or those acting on its behalf or at its request were negligent in the want of due care and caution in the operation, management, maintenance, repair, inspection, and/or control of the aforesaid parking lot, in failing to adequately, properly and safely maintain the parking lot located in front of Speedway and located at 6180 Collet Road, in the Town of Farmington, County of Ontario, State of New York; in causing, allowing and permitting an unsafe and dangerous accumulation of ice to exist thereat; in failing to sand, salt, remove or warn of such accumulation of ice on the surface of the aforementioned parking lot; in failing to keep said parking lot in good and safe repair and/or condition; in failing to keep

said parking lot reasonably clear and free of hazardous icy condition that existed thereat; in failing to remove and/or alleviate the ice that accumulated on the said parking lot surface; in failing to make timely inspections of the parking lot and to keep said parking lot surface reasonably free of hazardous icy conditions; in causing, allowing and permitting the parking lot surface to become and remaining an unsafe, dangerous and hazardous condition with the accumulation of ice to exist thereat; in permitting an accumulation of ice to exist and persist thereat; in failing to timely and/or properly inspect said parking lot; in failing to keep said parking lot free from a dangerous and unsafe condition; improperly attempting to remove the ice from said parking lot; in failing to properly maintain, repair and/or upkeep said parking lot; in failing to warn plaintiff and others, by signs or otherwise, of the icy hazardous conditions of said parking lot surface; in causing, allowing and permitting an unsafe and dangerous condition to remain on said parking lot surface; in causing and/or permitting a hazardous icy condition to remain on said parking lot surface; in causing and/or permitting a hazardous icy condition to remain for an unreasonable length of time; in failing to take those steps necessary to avoid the contingency which herein occurred; in failing to keep said premises under proper control; in failing to properly keep and maintain said parking lot so as to prevent the contingency which herein occurred; in failing to observe that degree of caution, prudence and care which was reasonable and proper under the controlling circumstances; in acting with reckless disregard for the safety of others and in failing to keep the premises under its control in a reasonably safe condition for reasonably foreseeable uses.

- 19. That as a result of the negligence of the defendant, Speedway LLC, the plaintiff, Kelly Curtis, was caused to and did sustain serious, severe and permanent personal injuries.
- 20. That this action falls within one or more of the exceptions as outlined in CPLR Section 1602.
- 21. As a result of the aforesaid occurrence and the negligence of the defendant, Speedway LLC, as herein above set forth, the plaintiff, Kelly Curtis, was caused to and did suffer serious, severe and permanent personal injuries all to her damage in

a sum exceeding the jurisdictional limits of all lower courts which might otherwise have jurisdiction.

WHEREFORE, plaintiff, Kelly Curtis, demand judgment against the defendants on each and every cause of action in amounts in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction over the subject matter herein together with interest, costs and disbursements of this action.

Dated: May 6, 2021

Yours, etc.



Mark O. Chieco, Esq.
PASSALACQUA & ASSOCIATES
Attorneys for Plaintiff
Kelly Curtis
Office and Post Office Address
610 Charlotte Street
Utica, New York 13501
(315) 688-1268

ATTORNEY CERTIFICATION

Pursuant to Part 130 of the
Rules of the Chief Administrator

The undersigned, an attorney admitted to practice in the courts of New York State, hereby certifies, pursuant to Part 130 of the Rules of the Chief Administrator, that deponent is an attorney representing a party in the within action; that deponent has read the foregoing Response to Complaint dated April 22, 2021, and knows the contents thereof; that to the deponent's best knowledge or belief, the matters contained therein are not frivolous, as defined by Rule 130-1.1(a).

Dated: May 6, 2021



Mark O. Chieco